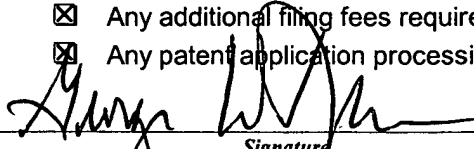



GAU 3712

<b>AMENDMENT TRANSMITTAL LETTER (Small Entity)</b>			Docket No. 1923/48641		
Applicant(s): Daniel F. Lyman					
Serial No. 09/417,428	Filing Date 10/13/99	Examiner U. Cegielnik	Group Art Unit 3712		
Invention: ENTERTAINMENT AND STRESS RELIEF DISK					
THE ASSISTANT COMMISSIONER FOR PATENTS:					
Transmitted herewith is an amendment in the above-identified application. <input checked="" type="checkbox"/> Small Entity status of this application has been established under 37 CFR 1.27 by a verified statement previously submitted. <input type="checkbox"/> A verified statement to establish Small Entity status under 37 FR 1.27 is enclosed. The fee has been calculated and is transmitted as shown below.					
CLAIMS AS AMENDED					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	17 -	20 =	0 x	\$9.00	\$0.00
INDEP. CLAIMS	1 -	3 =	0 x	\$39.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ A duplicate copy of this sheet is enclosed. <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 04-1105 A duplicate copy of this sheet is enclosed. <input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input checked="" type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.					
 _____ Signature			Dated: July 21, 2000		
George W. Neuner (Reg. No. 26,964) Dike, Bronstein, Roberts & Cushman Intellectual Property Practice Group EDWARDS & ANGELL, LLP 130 Water Street Boston, MA 02109-4280			<div style="border: 1px solid black; padding: 5px;"><p>I certify that this document and fee is being deposited on 7/21/00 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.</p><p> Signature of Person Mailing Correspondence</p><p>Barbaranne Jenness Typed or Printed Name of Person Mailing Correspondence</p></div>		
CC:					



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Attorney Docket No. 48,641 (1923)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: D.F. Lyman  
U.S.S.N.: 09/417,428 GROUP: 3712  
FILED: October 13, 1999 EXAMINER: U. Cegielnik  
FOR: ENTERTAINMENT AND STRESS RELIEF DISK

Assistant Commissioner for Patents  
Washington, D.C. 20231

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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Date:

July 21, 2000

By:

Barbara Jenness  
Barbara Jenness

\*\*\*\*\*

Sir:

REQUEST FOR RECONSIDERATION

In the Office Action dated April 26, 2000, claims 1-17 are pending and all claims are rejected. Applicant requests reconsideration for at least the reasons discussed herein.

Claim 1 is rejected under 35 U.S.C. §102(b) over "Ballard" (sic). Bullard (Des 301,156) discloses an ornamental design for a round clicker. The examiner asserts that "manual manipulation of the device inverts the first and second surfaces between two equilibrium positions." However, there is no teaching or suggestion that "manual

manipulation of the device inverts the first and second surfaces between two equilibrium positions." Indeed, prior art clickers have typically provided only one equilibrium condition for the clicking surface. When the top surface is pressed inwardly, typically a noise is made, after which the surface **automatically** pops back into the original equilibrium position. Thus, such devices fail to have two equilibrium positions, much two less **stable** equilibrium positions.

The device of the present invention, however, has two **stable** equilibrium positions. When the first surface is pressed inwardly the device inverts from a first equilibrium position where the first surface is outward to a second equilibrium position where the first surface is inward. To reestablish the original equilibrium position requires pressing inwardly on the second surface to reinvert the device from the second equilibrium position to its original equilibrium position.

Bullard ***fails*** to teach or suggest a device

having **two stable equilibrium positions** wherein a first equilibrium position comprises a first surface having a concave shape and a second surface having a convex shape and a second equilibrium position comprises the second surface having a concave shape and the first surface having a convex shape,

whereby manual manipulation of the device inverts the first and second surfaces between the two stable equilibrium positions.

The term "equilibrium position" is contrary to a device having pressed position that is unstable and returns automatically to a prior position when pressure is removed.

Thus, it is not seen how the present invention would have been made by one of ordinary skill in the art in view of Bullard.

Claim 1 is rejected under 35 U.S.C. §102(b) over Davis (US 2,153,957). Davis describes a jumping toy consisting of a hemispherical body made of fairly stiff and hard rubber. Thus, Davis *fails* to teach or suggest a device having a center portion and a **substantially planar peripheral portion** surrounding the center portion, as claimed herein.

Further, Davis states (col. 1, lines 6-12) that"

[t]o operate the toy one simply turns it inside out and places it rim down on a flat surface. the toy will shortly start to return, at first slowly and then with increasing rapidity, to its undeformed shape. At a critical midway point the toy suddenly and completely snaps back into shape.

Thus, the jumping toy of Davis automatically returns to its undeformed shape. the deformed shape is not a stable position but always has movement to return to the undeformed shape, even though slowly (and perhaps barely perceptively) at first.

Davis also *fails* to teach or suggest a device

having **two stable equilibrium positions** wherein a first equilibrium position comprises a first surface having a concave shape and a second surface having a convex shape and a second equilibrium position comprises the second surface having a concave shape and the first surface having a convex shape,

whereby manual manipulation of the device inverts the first and second surfaces between the two stable equilibrium positions.

It is not seen how the present invention would have been made by one of ordinary skill in the art in view of Davis.

Claims 2-17 are rejected under 35 U.S.C. §103(a) over Davis. Davis is discussed in detail above. Claims 2-17 are patentable for at least the same reasons as discussed above. Davis ***fails*** to teach or suggest a device having a center portion and **a substantially planar peripheral portion** surrounding the center portion, as claimed herein. Davis also ***fails*** to teach or suggest a device

having **two stable equilibrium positions** wherein a first equilibrium position comprises a first surface having a concave shape and a second surface having a convex shape and a second equilibrium position comprises the second surface having a concave shape and the first surface having a convex shape,  
whereby manual manipulation of the device inverts the first and second surfaces between the two stable equilibrium positions.

In addition, Davis ***fails*** to teach or suggest a device that is disk-shaped and has a diameter  $d$  in the range of about 0.75 inch to about 6 inches, as set forth in claim 2.

Davis ***fails*** to teach or suggest a device having a peripheral portion comprising a lip having a width  $w$  wherein the ratio of  $w$  to  $d$  is not greater than about  $\frac{1}{4}$ , as set forth in claim 3.

Davis ***fails*** to teach or suggest a device wherein the ratio of  $w$  to  $d$  is in the range of about  $\frac{1}{30}$  to about  $\frac{1}{5}$ , as set forth in claim 4.

Davis ***fails*** to teach or suggest a device wherein the ratio of  $t$  to  $d$  is in the range of about  $1/80$  to about  $1/20$ , as set forth in claim 6.

Davis ***fails*** to teach or suggest a device wherein the thickness  $t$  of the center portion is tapered, such that a thickness  $t_i$  near the peripheral portion is greater than a thickness  $t_c$  near the center, as set forth in claim 7.

Davis ***fails*** to teach or suggest a device wherein a domed peak is formed in the center portion the peak having a height  $h_p$  relative to a plane containing the peripheral portion, and the ratio of  $h_p$  to  $d$  is not greater than about  $1/3$ , as set forth in claim 8.

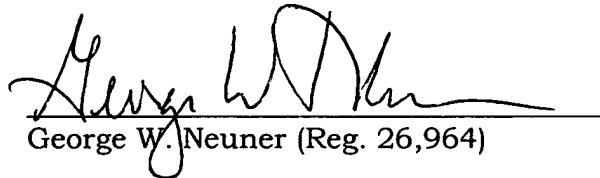
Davis also ***fails*** to teach or suggest a device (1) wherein at least one of the first and second surfaces are textured; (2) wherein the texture is provided by ridges formed on the surface; (3) wherein the texture is provided by dimples formed on the surface; (4) wherein at least one surface comprises an illustration; (5) wherein the material comprises a scent that is emitted from the device upon manual manipulation; or (6) wherein the material comprises a composition that changes the color of the device upon changes in temperature or changes in other environmental conditions. the assertion that these claimed recitations are merely design choices is not supported. Nowhere is there any suggestion that the device of Bullard or Davis should be so constructed.

Lyman  
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In view of the discussion above, it is respectfully submitted that the present application is in condition for allowance. an early reconsideration and notice of allowance are earnestly solicited.

Respectfully submitted,

Date: 19 July '00

  
George W. Neuner (Reg. 26,964)

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